



What Do I Do if I Don't Think the IRS is Right?

An Introduction to Your Appeal Rights

2003 IRS Nationwide Tax Forum



The Appeals Mission

Resolve tax controversies, without litigation, on a basis that is fair and impartial to both the Government and the taxpayer, and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.



The Appeals Mission

- **Settlement rather than litigation**
- **Fair and impartial**
- **Independence**
- **Enhancing voluntary compliance**



Glossary

- **Settlement**
- **Hazards of litigation**
- **Docketed/Non-docketed**
- **Mediation**
- **Hearings/Determinations**



Nature of Conferences and Hearings

- **Informal**
- **Types?**
 - **In office**
 - **Telephone**
 - **Correspondence**
- **No frivolous/constitutional arguments**



Ex Parte Communications

➤ Rev. Proc. 2000-43

- Prohibits Appeals discussions with Compliance without offering taxpayer involvement**
- Applies to oral and written communications**
- Exceptions:**
 - Administrative and ministerial**
 - Docketed cases**
 - Unnecessary delay**



Appeal rights— Income Tax Adjustments

- **30-Day Letter**
- **Denials of Claims for Refund**
- **Audit Reconsiderations**
- **Statutory Notice of Deficiency (90-day letter)**



Types of Income Tax Adjustments

➤ Legal

➤ Does the law, regulations, or case law allow the deduction?

➤ Factual

➤ Have you proven you paid this expense?



Penalty Appeals

➤ Prior to assessment

- Those subject to statutory notice procedures
- Trust fund recovery penalty
- Return preparer penalty

➤ After assessment

- Denial of penalty abatement requests



Collection Due Process (CDP) Hearings

➤ What qualifies?

- After issuance of a Notice of Intent to Levy**
- After filing of the Notice of Federal Tax Lien**

➤ How and When

- In writing within 30 days from trigger date**



CDP – What Appeals Considers

- **Did IRS follow required procedures?**
- **Issues raised by the taxpayer:**
 - **Relevant challenges**
 - **Innocent spouse**
 - **Collection alternatives**
- **Does the need for efficient tax collection outweigh the action's intrusiveness?**



Offers in Compromise (OIC)

- **Doubt as to Liability**
 - **“Does the taxpayer owe the tax?”**
- **Doubt as to Collectibility**
 - **“Can taxpayer pay the tax?”**
- **Effective Tax Administration**
 - **“Will accepting this offer promote effective tax administration?”**



OIC – What Appeals Considers

- **Current administrative requirements**
- **Settlement authority (for liability cases only)**
- **Processibility in CDP**
 - **All returns filed and estimated taxes current**
 - **Not in bankruptcy**
 - **In business taxpayer – current last two quarters**



Collection Appeals Program (CAP)

➤ What qualifies?

- Before or after filing the notice of tax lien**
- Certain levy actions**
- Denial/termination of installment agreements**
- Certain seizure related issues**



For additional information

Appeals Website:

www.irs.gov/appeals

**Pub 5, Appeal Rights and Preparation of
Protests for Unagreed Cases**

Pub 1660, Collection Appeal Rights